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10/812,219	03/29/2004	Nancy J. Rabenold	01004.1030	2892
35856	7590	09/08/2005	EXAMINER	
SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC			PAIK, STEVE S	
P.O. BOX 88148			ART UNIT	
ATLANTA, GA 30356			PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/812,219	Applicant(s) RABENOLD ET AL.	
	Examiner Steven S. Paik	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Receipt is acknowledged of the Amendment filed June 20, 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 and 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pellerin (US 6,411,916B1) in view of Dumont (US 5,525,786).

Re claim 1, Pellerin discloses a system for evaluating the condition of an item, the system comprising the components of:

a controller (A network device connected to a database management system performs a variety of functions including control and information output.) that is communicatively coupled to the plurality of sensors (The sensor is also in electronic communication with a data management system for storing the product temperature data for later downloading to the data management system) and operative to control the operation of the plurality of sensors and obtain data readings (temperature readings) from the plurality of sensors;

an information acquisition engine (a data management system, in general, having a structure of a computer network acquires information from sensors 100 via an output interface) operable to receive information regarding the evaluation item (col. 3, line 58-col. 4, line 56);

Art Unit: 2876

a database (data management system) containing expected results (governmental or local guidelines) pertaining to the evaluation item; and

a damage calculator (col. 1, ll. 9-16 discloses a few situations that may be considered as a damage to a retail store/business) that is operable to compare the data readings from the plurality of sensors and the expected results (government food safety regulation) from the database to identify particular characteristics pertaining to the evaluation item (food/medication).

However, Pellerin does not explicitly disclose a sensor chamber including an interior area for housing an evaluation item and the interior area including a plurality of sensors associated to the sensor chamber.

Dumont discloses a system (checkout system 10, Figs. 1-4) for evaluating the condition of an item, the system comprising, among other things, a sensor chamber (scanning tunnel 30) including an interior area for housing an evaluation item (items to be purchased), the interior area including a plurality of sensors (scanning cells 42; col. 3, ll. 35+) associated to the sensor chamber and a controller (A control box 80. The control box contains price data of a scanned item.) that is communicatively coupled to the plurality of sensors (scanning cells 42) and operative to control the operation of the plurality of sensors and obtain data readings (price information) from the plurality of sensors. The plurality of scanning cells allows a user to retrieve barcoded information regardless of the location of a barcode on an item.

In view of Dumont, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ a plurality of sensors associated to a sensor chamber in addition to the system of Pellerin due to the fact that more accurate data reading can be accomplished the purposes of improving accurate processing of the captured data.

Art Unit: 2876

Furthermore, such modification of a plurality of sensors associating to the sensor chamber to the teachings of Pellerin would provide benefits to a consumer an assurance of purchasing a fresh produce/product while improving accuracy and speed of a checkout and inventory system of a merchant.

Re claim 2, Pellerin in view of Dumont discloses the system as recited in rejected claim 1 stated above, further comprising a console (the data management system is connected with a network device that has a function of controlling and processing data) and, wherein the information acquisition engine is operable to receive information regarding the evaluation item provided by an operator using from the console.

Re claim 3, Pellerin in view of Dumont discloses the system as recited in rejected claim 1 stated above, further comprising a network interface (output interface 104) and, where the information acquisition engine is operable to receive information regarding the evaluation (such as government food regulation) by searching for information through the network interface, identifying sources for information and extracting the information.

Re claim 4, Pellerin in view of Dumont discloses the system as recited in rejected claim 3 stated above, wherein the network interface provides access to a manufacturing and industry data source (government/local regulations).

Re claim 5, Pellerin in view of Dumont discloses the system as recited in rejected claim 1 stated above, further comprising a document capture device (such as scanner; col. 6, ll. 22-29) and wherein the information acquisition engine is operable to receive information regarding the evaluation item through the document capture device.

Re claim 6, Pellerin in view of Dumont discloses the system as recited in rejected claim 1 stated above, wherein the controller is operable to initially control the plurality of sensors to obtain evaluation item identification information and, based at least in part on the evaluation item identification information (product identification), is operative to control the plurality of sensors to obtain data readings from the plurality of sensors based at least in part on the evaluation item identification information (col. 5, line 51 – col. 6, line 21).

Re claim 7, Pellerin in view of Dumont discloses the system as recited in rejected claim 6 stated above, wherein the database includes a plurality of control sequences (data management system tracks the temperature of plural sensors. Depending upon the temperature data, sensor 100 also provides a visual or aural indication for store workers to perform specific actions with respect to the product.) and, the controller is operative to initially control the plurality sensors based on a particular control sequence selected from the plurality of control sequences (col. 4, line 30- col. 6, line 42).

Re claim 8, Pellerin in view of Dumont discloses the system as recited in rejected claim 6 stated above, wherein the database includes a plurality of control sequences and, the controller is operative to control the plurality sensors to obtain data readings based on a particular control sequence selected from the plurality of control sequences based at least in part on the evaluation item identification information (col. 4, line 30- col. 6, line 42).

Re claim 9, Pellerin in view of Dumont discloses the system as recited in rejected claim 1 stated above, wherein the sensor chamber includes a plurality of environmental controls and wherein the controller is further operative to control the state of the environmental controls (such as temperature controls).

Art Unit: 2876

Re claim 10, Pellerin in view of Dumont discloses the system as recited in rejected claim 6 stated above, wherein the sensor chamber includes a plurality of environmental controls and wherein prior to controlling the plurality of sensors to obtain data readings the control sets the state of the environmental controls based at least in part on the evaluation item identification information (product identification information).

Re claim 12, Pellerin discloses a method of performing an evaluation for an item (food/medication), the evaluation assisting a decision maker in a decision regarding the item when the decision maker does not have direct access to the item, the method comprising the steps of:

detecting the presence of an evaluation item entered into a sensor chamber (a store clerk can physically detect the presence of an evaluation item entered into a sensor chamber (storage facility or display fixture 90);

execute a first sensor (input probe 102 senses the actual product temperature) sequence to identify the evaluation item (food);

based on the identification of the evaluation item, adjust the ambient environment condition (temperature) of the sensor chamber and execute a second sensor (temperature of a sensor) sequence to obtain sensor sequence result data (col. 4, ll. 6-24);

comparing the sensor sequence result data to a set of expected data (governmental/local regulation), the set of expected data selected at least in part on the results of executing the first sensor sequence; and

identify any particular characteristics (such as expiration date) of the evaluation item based on differences between the sensor sequence result data and the set of expected data.

Art Unit: 2876

However, Pellerin does not explicitly disclose a sensor chamber including an interior area for housing an evaluation item and the interior area including a plurality of sensors associated to the sensor chamber.

Dumont discloses a system (checkout system 10, Figs. 1-4) for evaluating the condition of an item, the system comprising, among other things, a sensor chamber (scanning tunnel 30) including an interior area for housing an evaluation item (items to be purchased), the interior area including a plurality of sensors (scanning cells 42; col. 3, ll. 35+) associated to the sensor chamber and a controller (A control box 80. The control box contains price data of a scanned item.) that is communicatively coupled to the plurality of sensors (scanning cells 42) and operative to control the operation of the plurality of sensors and obtain data readings (price information) from the plurality of sensors. The plurality of scanning cells allows a user to retrieve barcoded information regardless of the location of a barcode on an item.

In view of Dumont, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ a plurality of sensors associated to a sensor chamber in addition to the system of Pellerin due to the fact that more accurate data reading can be accomplished the purposes of improving accurate processing of the captured data. Furthermore, such modification of a plurality of sensors associating to the sensor chamber to the teachings of Pellerin would provide benefits to a consumer an assurance of purchasing a fresh produce/product while improving accuracy and speed of a checkout and inventory system of a merchant.

Re claim 13, Pellerin in view of Dumont discloses the method as recited in rejected claim 12 stated above, wherein, prior to executing the first sensor sequence, the method includes the

Art Unit: 2876

step of entering preliminary data pertaining to the evaluation item, the preliminary data being operative to assist in identifying the item (col. 6, ll. 53-58).

Re claim 14, Pellerin in view of Dumont discloses the method as recited in rejected claim 13 stated above, wherein, the first sensor sequence utilized in the step of executing the first sensor sequence is selected based at least in part on at least a portion of the preliminary data (product type and governmental/local regulation).

Re claim 15, Pellerin in view of Dumont discloses the method as recited in rejected claim 12 stated above, wherein, the second sensor sequence is selected from a plurality of sensor sequences based at least in part on the results of executing the first sensor sequence (sensing and storing an initial temperature data in a data management system via a network interface).

Re claim 16, Pellerin in view of Dumont discloses the method as recited in rejected claim 12 stated above, wherein, the second sensor sequence is selected from a plurality of sensor sequences based at least in part on the results of executing the first sequence (col. 4, ll. 6-56).

Re claim 17, Pellerin in view of Dumont discloses the method as recited in rejected claim 12 stated above, wherein, the sensors in the sensor chamber can be moved and the step of adjusting the ambient environment condition of the sensor chamber further comprises the step of moving the sensors based at least in part on the results of executing the first sensor sequence (col. 4, ll. 6-56).

Re claim 18, Pellerin in view of Dumont discloses the method as recited in rejected claim 12 stated above, wherein, the expected data includes manufacturing and industry data pertaining to the evaluation item and the step of comparing sensor sequence result data to a set of expected data includes the steps of:

accessing the manufacturing and industry data (governmental/local regulation) based on the results of executing the first sensor sequence (initial temperature data); and comparing the sensor sequence result data to the manufacturing and industry data (governmental/local regulation).

Re claim 19, Pellerin in view of Dumont discloses the method as recited in rejected claim 12 stated above, further comprising the step of classifying (grouping) the particular characteristics into one of a plurality of classes (sold out/expired).

Re claim 20, Pellerin discloses a system for evaluating the condition of an item to assist in making a decision regarding the item, the system comprising the components of:

a plurality of environmental controls (temperature controller);

an information acquisition engine (a data management system, in general, having a structure of a computer network acquires information from sensors 100 via an output interface) operable to receive information regarding the evaluation item;

a controller (A network device connected to a database management system performs a variety of functions including control and information output.) that is communicatively coupled to the plurality of sensors and environmental controls and operable to:

initially control the operation of the plurality of sensors and, in conjunction with any information obtained from the information acquisition engine, to identify the evaluation item (food/medication);

in response to identifying the evaluation item, control the operation of the plurality of environment controls to establish an environmental setting within the sensor chamber that is conducive for further evaluation of the evaluation item; and

Art Unit: 2876

further control the operation of the plurality of sensors to move the sensors to an optimal position (proximity of the product) and obtain data readings (temperature data of an ambient temperature) from the plurality of sensors;

a database (a data management system) containing expected results (governmental/local regulation) pertaining to the evaluation item; and

a damage calculator that is operable to compare the data readings from the plurality of sensors and the expected results from the database to identify particular characteristics pertaining to the evaluation item (col. 1, ll. 9-16 discloses a few situations that may be considered as a damage to a retail store/business).

However, Pellerin does not explicitly disclose a sensor chamber including an interior area for housing an evaluation item and the interior area including a plurality of electronically adjustable and electronically movable sensors associated to the sensor chamber.

Dumont discloses a system (checkout system 10, Figs. 1-4) for evaluating the condition of an item, the system comprising, among other things, a sensor chamber (scanning tunnel 30) including an interior area for housing an evaluation item (items to be purchased), the interior area including a plurality of sensors (scanning cells 42; col. 3, ll. 35+) associated to the sensor chamber and a controller (A control box 80. The control box contains price data of a scanned item.) that is communicatively coupled to the plurality of sensors (scanning cells 42) and operative to control the operation of the plurality of sensors and obtain data readings (price information) from the plurality of sensors. The plurality of scanning cells allows a user to retrieve barcoded information regardless of the location of a barcode on an item.

Art Unit: 2876

In view of Dumont, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ a plurality of sensors associated to a sensor chamber in addition to the system of Pellerin due to the fact that more accurate data reading can be accomplished the purposes of improving accurate processing of the captured data.

Furthermore, such modification of a plurality of sensors associating to the sensor chamber to the teachings of Pellerin would provide benefits to a consumer an assurance of purchasing a fresh produce/product while improving accuracy and speed of a checkout and inventory system of a merchant.

Allowable Subject Matter

4. Claim 11 is allowable.

The following is a statement of reasons for the indication of allowable subject matter: none of the prior art of the record discloses, teaches or fairly suggests the claimed system comprising, among other things, a controller that is operable to detect when an evaluation item is placed into the interior of a sensor chamber.

Response to Arguments

5. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. As a result of an updated prior art search, the teachings of Dumont (US 5,525,786) has been applied to claims 1-10 and 12-20.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

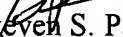
Art Unit: 2876

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 571-272-2404. The examiner can normally be reached on M, T, R, and F 530a-4:00p (Maxi-Flex*).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven S. Paik
Primary Examiner
Art Unit 2876

ssp